

## Comment Set 2

July 2, 2004

Valerie Van Way  
California State Lands Commission  
100 Howe Street, Suite 100-South  
Sacramento, CA 95825

SUBJECT: Draft Environmental Impact Report for the Shore Terminals LLC  
Martinez Marine Terminal Lease Consideration  
BCDC Permit File 6-73; SCH#: 2001042022

Dear Ms. Van Way:

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Shore Terminals LLC Martinez Marine Terminal Lease Consideration (DEIR). Although the San Francisco Bay Conservation and Development Commission (Commission) has not reviewed the document, the following are staff comments based on our review of the DEIR in the context of the Commission's authority under the McAteer-Petris Act (California Government Code Sections 66600 et seq.) and the federal Coastal Zone Management Act. The Commission's *San Francisco Bay Plan* ("Bay Plan") contains policies on Bay resources, such as fish, other aquatic organisms and wildlife, and water quality; as well as policies on uses of the Bay and shoreline, including fill for water-related development and public access.

The Commission further designates certain shoreline areas for uses that must be located on the waterfront, such as ports and other water-related industrial uses, so as to avoid potential filling of the Bay to accommodate water-related uses where the waterfront has been developed for uses not necessary to be at the water's edge. The Shore terminal, including the onshore storage tank area, is located within a water-related industry priority use area as shown on Bay Plan Map 3. The DEIR acknowledges this designation as well as the Commission's permitting authority over the marine terminal.

The DEIR studies potential impacts related to extending Shore's lease for the five-acre marine terminal with the State Lands Commission for a 20-year period, allowing the terminal to continue its current operations. The Shore terminal in Martinez currently operates under a permit issued by this Commission in August 1973, and subsequently amended (Permit 6-73). Upon review, there is no clause included in the permit that would require an amendment solely to reflect a lease extension.

As described in the DEIR, no expansion of marine terminal operations are expected to occur during this period, and vessel activities will remain the same. The DEIR assesses potential environmental impacts associated with continued operation of the terminal, with a focus on possible oil spills that could result during the transfer of oil and petroleum products at the terminal as well as during vessel transit, including the potential for spills due to accidents. The Bay Plan contains policies on navigational safety and oil spill prevention.

The DEIR states that Shore meets all federal and state requirements for response capabilities and recommends a number of measures to mitigate for oil spills, largely procedural. However, in the event measures are proposed for the terminal area that could constitute development on the shoreline or in the Bay, for oil spill prevention or response or to mitigate any potentially adverse impact, it would be advisable for Shore Terminals to contact our Chief of Permits, Bob Batha, prior to initiating any work to discuss the possible need for an amendment to Permit 6-73.

If you should have any questions, please do not hesitate to contact me at 415.352-3644 or [lindas@bcd.ca.gov](mailto:lindas@bcd.ca.gov). In the event of my absence, please contact our Chief of Permits, Bob Batha, at 415.352-3600. Thank you again for the opportunity to review the DEIR for the proposed lease extension.

Sincerely,

LINDA SCOURTIS  
Coastal Planner

cc: Katie Shulte Joung, State Clearinghouse

## Responses to Comment Set 2

- 2-1.1 The CSLC is aware that the State Government Code establishes the regulatory framework for the BCDC. In particular, Section 66632, states, in part:

**Permit for Fill, Extraction of Materials, or Substantial Change in Use of Land, Water, or Structure; Application for Permits.**

(a) Any person or governmental agency wishing to place fill, to extract materials, or to make any substantial change in use of any water, land or structure, within the area of the commission's jurisdiction shall secure a permit from the commission and, if required by law or by ordinance, from any city or county within which any part of the work is to be performed. For purposes of this title, "fill" means earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods, such as houseboats and floating docks. For the purposes of this section "materials" means items exceeding twenty dollars (\$20) in value.

This is interpreted by the BCDC to include most work, including placing fill, extracting or grading material, making repairs or a substantial change in use. While the Draft EIR does not anticipate a substantial change in use for the Proposed Project, e.g. a new lease, required Mitigation Measures may include "work" as interpreted by the BCDC. Therefore, if any physical additions or changes are proposed to be made to the wharf are or in the water, the applicant will be advised to contact Bob Batha at 415.352-3612 for a determination as to the need for a BCDC permit amendment.